

§ 1737.71

7 CFR Ch. XVII (1–1–04 Edition)

Statistical Profile (BSP), which is revised annually by RUS. If the borrower's operating experience is not the basis for one or more per-subscriber estimates used in the feasibility study, the estimates generally may not vary from the standard by more than 20 percent to reflect the particular characteristics of the loan applicant. Any variation from the standard shall be documented.

(i) In cases where these per-subscriber standards do not represent a reasonable forecast of a particular borrower's operations (for example, when a variation greater than 20 percent is necessary), estimates based upon a special analysis of the borrower's projected operations shall be used. The special analysis will accompany the feasibility study.

(j) When it is reasonably expected that a subscriber, classified as a special project, may discontinue service, a second feasibility study will be prepared, for comparison purposes, omitting revenues and expenses from this subscriber.

(k) RUS may obtain and review commercially available credit reports on applicants for a loan or loan guarantee to verify income, assets, and credit history, and to determine whether there are any outstanding delinquent Federal or other debts. Such reports will also be reviewed for parties that are or propose to be joint owners of a project with a borrower.

(l) If it is determined that loan feasibility cannot be proven as described in this section, the loan application will be returned to the borrower with an explanation. A borrower whose application has been returned will have 90 working days, from the date the application was returned, to revise and re-submit its application. If a revised application is not received by RUS within the 90-day period described above, the application will be canceled and a new application will need to be submitted if the borrower wishes further consideration.

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26599, June 10, 1991; 58 FR 66256, Dec. 20, 1993; 62 FR 46872, Sept. 5, 1997]

§ 1737.71 Interest rate to be considered for the purpose of assessing feasibility for loans.

(a) For purposes of determining the creditworthiness of a borrower for concurrent RUS cost-of-money and RTB loans, the Administrator shall assume that the loans, if made, would bear interest at the Treasury rate on the date of determination as described in paragraph (b) of this section. If the Treasury rate exceeds 7 percent, the interest rate used to determine eligibility for the RUS cost-of-money loan will be 7 percent.

(b) The 30-year Treasury rate will be used in all feasibility studies for loans with a final maturity of at least 30 years. A straight-line interpolation between other Treasury rates will be used to determine the rate used in feasibility studies for loans with final maturities of less than 30 years.

(c) The Treasury rate will be obtained each Tuesday, or as soon as possible thereafter, from the Federal Reserve. The rate for the current week, from the column labeled "This week" in the Federal Reserve statistical release, will be used from that Wednesday through the following Tuesday.

(d) As used in this section, the "date of determination" means the date of the feasibility study used in support of the loan recommendation.

[58 FR 66257, Dec. 20, 1993]

§§ 1737.72–1737.79 [Reserved]

Subpart I—Characteristics Letter

§ 1737.80 Description of characteristics letter.

(a) After all of the studies and exhibits for the proposed loan have been prepared, but before the loan is recommended, RUS shall inform the borrower, in writing, of the characteristics of the proposed loan. The purpose of the characteristics letter is to inform the borrower and obtain its concurrence, before further consideration by RUS of the loan approval and the preparation of legal documents relating to the loan, in such matters as the amount of the proposed loan, its purposes, rate of interest, loan security requirements, and other prerequisites to the advance of loan funds. The letter,

whether or not concurred in by the borrower, does not commit RUS to approve the loan on these or any other terms.

(b) The Forecast of Revenues and Expenses and a copy of RUS Form 493, "Telephone Loan Budget," shall be enclosed with the characteristics letter. This copy of the budget shall be subject to change by RUS with the borrower's agreement.

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26600, June 10, 1991]

§§ 1737.81–1737.89 [Reserved]

Subpart J—Final Loan Approval Procedures

§ 1737.90 Loan approval requirements.

(a) In addition to requirements set forth in 7 CFR part 1735, 7 CFR part 1737 and other applicable parts of 7 CFR chapter XVII, the following are certain additional requirements that must be met before RUS will approve a loan:

(1) If the borrower had 100 or more employees as of the prior December 31, it must submit the current annual Employer Information Report EEO-1, Standard Form 100, as required by the Department of Labor; see 29 CFR 1602.7 through 1602.14.

(2) The borrower must be in compliance with regulations on non-discrimination. See 7 CFR part 1790 (or RUS Bulletin 320-19).

(3) For subsequent loans, RUS must determine whether the borrower's accounting records are adequate. If the records are not adequate, as determined by RUS based on Generally Accepted Accounting Principles or other accounting conventions as deemed necessary by RUS, a provision will be included in the loan contract requiring the borrower to improve its records to an adequate level.

(4) The borrower must not have any receivables, loans, guarantees, investments, or other obligations that are contrary to the mortgage provisions or any RUS regulations including, but not limited to, 7 CFR part 1758 (or RUS Bulletins 320-4, 320-22, 321-2, 322-2, 323-1, or 326-1). If the borrower has any of these items, the loan contract shall

contain a provision requiring that they be eliminated prior to the release of funds. See 7 CFR part 1744 for conditions under which RUS will provide a shared first lien and/or a lien accommodation for non-RUS lenders.

(5) RUS must make a determination on flood insurance requirements. In accordance with the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973, as amended (the "Flood Insurance Act"), RUS shall not approve financial assistance for the acquisition, construction, repair or improvement of any building or any machinery, equipment, fixtures or furnishings contained or to be contained in any such building located in an area which has been identified by the Director of the Federal Emergency Management Agency (the "Director of FEMA") pursuant to the Flood Insurance Act as an area having special flood hazards unless:

(i) Flood insurance has been made available, pursuant to the Flood Insurance Act, in the area in which the acquisition, construction, repair or improvement is proposed to occur; and

(ii) The borrower has obtained flood insurance coverage with respect to such building, machinery, equipment, fixtures or furnishings as may be required pursuant to the Flood Insurance Act.

Accordingly, a finding shall be made on whether loan funds will be used to finance buildings, machinery, fixtures or furnishings located in an identified special flood hazard area. If loan funds are to be used in such a special flood hazard area, a provision will be included in the loan contract restricting the release of funds until all the requirements of the Flood Insurance Act have been satisfied.

(6) All environmental requirements must be met (see 7 CFR part 1794).

(b) [Reserved]

[54 FR 13356, Apr. 3, 1989. Redesignated at 55 FR 39396, Sept. 27, 1990, as amended at 56 FR 26600, June 10, 1991]

§ 1737.91 Approval.

(a) A loan is approved when the Administrator, or whoever is delegated authority, signs the administrative findings and the letter to the borrower announcing the loan.